

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
ISAAC K. STROMAN,**

Plaintiff,

**9:18-cv-149
(GLS/TWD)**

v.

DANIEL MARTUSCELLO et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

ISAAC K. STROMAN
Plaintiff *Pro Se*
11-A-0292
Auburn Correctional Facility
P.O. Box 618
Auburn, New York 13021

FOR DEFENDANTS:

HON. BARBARA UNDERWOOD
New York Attorney General
The Capitol
Albany, New York 12224

RYAN L. ABEL
HELENA O. PEDERSON
Assistant Attorney Generals

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following an Order and Report Recommendation by Magistrate Judge Thérèse Wiley Dancks duly filed on September 7, 2018. (Dkt. No. 24.) Following fourteen days

from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Order and Report Recommendation for clear error, it is hereby

ORDERED that the Order and Report Recommendation (Dkt. No. 24) is **ADOPTED** in its entirety; and it is further

ORDERED that defendants' motion to dismiss (Dkt. No. 20) is **GRANTED IN PART** and **DENIED IN PART** as follows:

GRANTED with prejudice as to plaintiff's state law assault and battery claims against defendants C.O. Tirigllio, C.O. Bence, C.O. Steele, and Scott Ranze¹; and

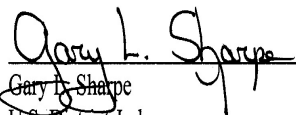
DENIED in all other respects, leaving only plaintiff's Eighth Amendment failure to intervene claims against defendants C.O. Pasquillio and Sgt. Bailey; and it is further

ORDERED that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules.

IT IS SO ORDERED.

¹ Although identified as "Ramsey" in the Order and Report Recommendation, (Dkt. No. 24 at 11), that defendant was later identified at Scott Ranze and the docket was accordingly amended, (Dkt. No. 14).

September 28, 2018
Albany, New York



Gary L. Sharpe
U.S. District Judge